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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,629	07/22/2003	Zhouxuan Zia	2002P11413US01; 60,427-60	6590

24500 7590 05/17/2005

SIEMENS CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
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EXAMINER

SAN MARTIN, EDGARDO

ART UNIT PAPER NUMBER

2837

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,629

Applicant(s)

ZIA ET AL.

Examiner

Edgardo San Martin

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 8-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/22/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 8 – 15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 11, 2005.

Specification

2. The abstract of the disclosure is objected to because:
 - Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet **within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited.** The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Correction is required. See MPEP § 608.01(b).

Oath/Declaration

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

- The serial number of one of the mentioned provisional applications is incomplete; it should read 60/409,205 instead of "60/09,205".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 – 7 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Trochon (EP 1070903) (Trochon US 6,772,858 will be used as the English equivalent).

With respect to claim 1, Trochon teaches a method of designing a Herschel-Quincke tube arrangement comprising the steps of representing a tube arrangement including a first passageway (Fig.3a, Item 5) and second passageway (Fig.3a, Item 6) fluidly connected to the first passageway at first and second junctions (Fig.3a, Items 6a and 6b), the second passageway divided by the junctions into first, second, and third passages (Fig.3a, Items 6, 7 and 8); associating lengths with each of the first

passageway and the first, second, and third passages producing a particular length combination (Col.2, Lines 45 – 55); calculating a filter parameter for the particular length combination (Fig.3b; and Col.3, Lines 3 – 15); associating other lengths with each of the passageway and the first, second, and third passages producing another particular length combination; calculating another filter parameter for the other particular length combination; and selecting one of the length combinations for the Herschel-Quincke tube arrangement based upon desired parameters including the filter parameters (Col.2, Line 28 – Col.3, Line 52).

With respect to claims 2 – 7, the Examiner considers that Trochon inherently teaches the limitations described in the claims (Figs.3a and 3b; Col.2, Line 28 – Col.3, Line 52).

With respect to claim 16, Trochon teaches a method of manufacturing a Herschel-Quincke tube arrangement comprising the steps of:

- a) forming a first passageway (Fig.3a, Item 5) and second passageway (Fig.3a, Item 6) fluidly connected to the first passageway at first and second junctions (Fig.3a, Items 6a and 6b) with the second passageway divided by the junctions into first, second, and third passages (Fig.3a, Items 6, 7 and 8), the first and second passageways being generally planar;
- b) bending the first and second passageways to a nonplanar configuration (Fig.6); and
- c) securing at least one of the first and second passageways to a vehicle component (Col.1, Lines 4 – 6) (Col.2, Line 28 – Col.3, Line 52).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trochon (EP 1070903) (Trochon US 6,772,858 will be used as the English equivalent).

Trochon teaches the limitations discussed in a previous rejection, but fail to disclose wherein the tube is made of plastic or a flexible material.

The Examiner considers that it would have been an obvious matter of designer choice to employ plastic or a flexible material to build the tube because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Conclusion

6. The attached hereto PTO Form 892 lists prior art made of record that the Examiner considered it pertinent to applicant's disclosure.

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Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571) 272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Edgardo San Martín
Primary Examiner
Art Unit 2837
Class 181
May 16, 2005